

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 23. BOARD OF PHARMACY

[R07-257]

#### PREAMBLE

- 1. Sections Affected**  
R4-23-610
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 32-1904(A)(1)  
Implementing statute: A.R.S. § 32-1901(62)
- 3. The effective date of the rules:**  
September 8, 2007
- 4. A list of all previous notices appearing in the *Register* addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 208, January 26, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 728, March 9, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive Ave., Ste. 140  
Glendale, AZ 85302  
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E-mail: rxcop@cox.net
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Board's new rules for automated storage and distribution systems went into effect on April 7, 2007. The Board staff discovered that language in R4-23-610(G) that prohibits a prescription medication from being left outside the prescription area or picked up by a patient when the pharmacist is not present is in direct conflict with language in R4-23-614(B)(2)(c) that allows the use of an automated storage and distribution system within 20 feet of the prescription area for the purpose of patients picking up prescriptions that do not require pharmacist consultation without a pharmacist being present. The Board intends to correct this conflict by adding language to R4-23-610(G)(2) to exempt the use of an automated storage and distribution system that complies with R4-23-614. R4-23-610(A)(2)(d) requires a pharmacy to assemble the pharmacy's policies and procedures as a "written manual or by another method approved by the Board of its designee." To be consistent with recently approved new rules requiring pharmacy policies and procedures, the Board is amending R4-23-610(A)(2)(d) to require that all policies and procedures be assembled "as a written or electronic manual." R4-23-610(A)(2)(e) requires that the policies and procedures be available for inspection "by the Board of its designee." To be consistent with recently approved new rules requiring pharmacy policies and procedures, the Board is amending R4-23-610(A)(2)(e) to require that all policies and procedures be available for inspection "by the Board or its staff." The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

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The Board believes that approval of this rule benefits the public and the pharmacy community by clearly establishing the standards for the personnel and security procedures of a pharmacy.

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not review or rely on any study relevant to the rule.

- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

- 9. The summary of the economic, small business, and consumer impact:**

The amended rule will impact the Board, pharmacies, pharmacists, and the public. The amended rules' impact on the Board will be the usual rulemaking-related costs, which are minimal. The Board estimates the amended rule will have no economic impact on pharmacies or pharmacists, because the rule change is simply removing a conflict with language in another Board rule, specifically, R4-23-614(B)(2)(c). R4-23-614(B)(2)(c) allows the use of an automated storage and distribution system within 20 feet of the prescription area that directly conflicts with R4-23-610(G). R4-23-614(B)(2)(c) allows a pharmacy to place an automated storage and distribution system outside the pharmacy area if the system is within 20 feet of the pharmacy and that system could be used to allow patients to pick up prescriptions during pharmacy operating hours or after hours when a pharmacist is not present. R4-23-610(G) requires a pharmacist to "ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present." The rule change is necessary to correct the conflict between the two rules, and the change will have no economic impact on pharmacies. To date no pharmacy has actually put one of these new devices in place. Several companies that make the automated storage and distribution systems have approached the Board regarding the effective date of the rules. These companies are actively seeking clients for these systems in Arizona. We expect one or more of the pharmacy chains to install these systems within the next two years.

The changes to R4-23-610(A)(2)(d) and (e) are needed to improve clarity and consistency of the rule and have no economic impact on pharmacies. Removing the language in R4-23-610(A)(2)(d) that requires Board approval of policies and procedures assembled "by another method" will actually benefit pharmacies by removing the question of whether or not a particular method of assembling policies and procedures is approved and the Board by removing the necessity and workload involved in approving a particular method of assembling policies and procedures. The amended rule has no economic impact on the public.

The public, Board, pharmacies, and pharmacists benefit from rules that are clear, concise, and understandable. The amended rule benefits the public and the pharmacy community by clearly establishing the standards for the personnel and security procedures of a pharmacy.

- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There are no substantial changes in the final rules from the proposed rules. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

- 11. A summary of the comments made regarding the rules and the agency response to them:**

A public hearing was held April 9, 2007. No one attended the public hearing. The Board received one written comment from The Arizona Community Pharmacy Committee voicing support for the rulemaking.

- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

- 13. Any material incorporated by reference and its location in the rules:**

None

- 14. Were these rules previously approved as emergency rules?**

No

- 15. The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-610. Community Pharmacy Personnel and Security Procedures

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ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-610. Community Pharmacy Personnel and Security Procedures**

- A. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge."
1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
  2. The pharmacist-in-charge shall:
    - a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared, implemented, and complied with;
    - b. Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23;
    - c. Document the review required under subsection (A)(2)(b);
    - d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written or electronic manual ~~or by another method approved by the Board or its designee~~; and
    - e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for employee reference and inspection by the Board or its ~~designee staff~~.
- B. Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.
1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
  2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically secure while the pharmacist is on duty.
- C. In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that is restricted to access only by a pharmacist is locked when a pharmacist is not present, except in an extreme emergency.
- D. A pharmacist is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.
- E. A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and controlled substances received in an area outside the pharmacy area are immediately transferred unopened to the pharmacy area. The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.
- F. A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot through which a written prescription order or prescription medication container to be refilled may be left in the prescription area when the pharmacist is not present.
- G. A pharmacist shall ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present by either:
1. Delivering the prescription medication to the patient, or
  2. Securing the prescription medication inside the locked pharmacy, except when using an automated storage and distribution system that complies with the requirements of R4-23-614.

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TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ADMINISTRATION

[R07-256]

PREAMBLE

**1. Sections Affected**

R9-22-1431

**Rulemaking Action**

Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-2903.01

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Implementing statutes: A.R.S. §§ 36-2907; 36-2907.04

**3. The effective date of the rules:**

July 10, 2007

The AHCCCS Administration is requesting an immediate effective date upon filing with the Secretary of State on July 10, 2007. The Waiver from Centers for Medicare and Medicaid Services (CMS) that allows AHCCCS to provide family planning services established new eligibility requirements to qualify for the Family Planning Services Extension Program (FPEP) including the requirement that the member not have other insurance. As part of the implementation for this program approved by CMS, CMS notified the AHCCCS Administration that discontinuance of current members who have other insurance must occur by July 2007. Therefore, the immediate effective date is permitted under A.R.S. § 41-1032(A)(3) to comply with this deadline.

**4. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 1053, March 23, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 951, March 23, 2007

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
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Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Administration has updated the rule to clarify the Family Planning Services Extension Program (FPEP) requirements and redetermination provisions. The Centers for Medicare and Medicaid Services (CMS) approved the 1115 Waiver on October 27, 2006 authorizing the Administration to provide Family Planning Services (FPS) for up to 24 months, with the additional requirement of redetermining the member's eligibility at 12 months. In addition, the FPS member may no longer have other insurance and qualify for FPS. The Administration has updated the existing rule regarding FPS to make it consistent with the changes stipulated by CMS in the 1115 Waiver, as well as to make the rules clear, concise, and understandable.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Administration did not review any study related to the rule.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

It is anticipated that the contractors, members, providers, small businesses, political subdivisions, the Department, and the Administration will be minimally impacted by the changes to the rule language. The Family Planning rule describes the eligibility requirements for the Family Planning Extension Program (FPEP) and how the Administration will enroll and reenroll individuals for Family Planning Services. The Administration is proposing amendments to the rule to revise, reorganize, and clarify the FPEP as specified in the Expenditure Authority and Special Terms and Condition sections of the 1115 Waiver with CMS.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

No substantial changes have been made between the proposed rule and final rule. All changes made by the Administration are technical and make the rule more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes to the rule.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Administration did not receive any comments regarding the rule.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

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**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously adopted as an emergency rule?**

No

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS**

Section

R9-22-1431. Family Planning Services Extension Program (FPEP)

**ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS**

**R9-22-1431. Family Planning Services Extension Program (FPEP)**

- ~~A. Except if excluded under subsection (B), a person may receive family planning services as provided in A.R.S. § 36-2907.04.~~
- ~~B. The Administration shall deny or terminate family planning services under this Section if a member:~~
- ~~1. Voluntarily withdraws from the program;~~
  - ~~2. Has whereabouts that are unknown;~~
  - ~~3. Fails to provide information to the Administration or Department;~~
  - ~~4. Becomes an inmate of a public institution;~~
  - ~~5. Moves out-of-state;~~
  - ~~6. Becomes sterile, or~~
  - ~~7. Dies.~~
- A. A member who loses eligibility for AHCCCS medical coverage under R9-22-1430 due to the postpartum period ending and who has no other creditable coverage, as specified in 42 U.S.C. 300gg(c), may receive up to 24 months of family planning services as provided in this Section and A.R.S. § 36-2907.04.
- B. Review of eligibility.
1. The Department shall complete a review of each member's continued eligibility for FPEP at least once every 12 months.
  2. If a member continues to meet all eligibility requirements, the Department shall authorize continued eligibility for the FPEP and notify the member of continued eligibility.
  3. The Department shall discontinue eligibility and notify the member of the discontinuance under R9-22-1415 if the member:
    - a. Has income that exceeds 133 percent of the FPL at the time of the 12-month review.
    - b. Fails to comply with a review of eligibility under this subsection, or
    - c. Meets any of the criteria under subsection (D).
- C. Changes in the member's income after the initial or review eligibility determination shall not impact the member's eligibility during the following 12-month period.
- D. The Administration or its designee shall deny or terminate a member from FPEP under this Section if the member:
1. Voluntarily withdraws from the program;
  2. Has whereabouts that are unknown;
  3. Fails to provide information to the Administration or Department;
  4. Becomes an inmate of a public institution;
  5. Moves out-of-state;
  6. Has creditable coverage under 42 U.S.C. 300gg(c);
  7. Fails to meet the documentation requirements for U.S. citizenship or legal alien status under A.R.S. § 36-2903.03;
  8. Becomes eligible under 9 A.A.C. Chapter 22, Chapter 28, or Chapter 31 for full services under Article 2 of this Chapter;
  9. Becomes sterile, or
  10. Dies.
- E. The Administration or its designee shall not reinstate eligibility under this Section after the effective date of a discontinuance of eligibility unless the discontinuance is overturned on appeal or resulted from an administrative error.

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TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION  
COMMERCIAL PROGRAMS

[R07-258]

**PREAMBLE**

- 1. Sections Affected:**  
R17-5-203
- Rulemaking Action:**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-5204
- 3. The effective date of the rules:**  
July 10, 2007  

In the interest of public safety, the Division requests an immediate effective date upon filing with the Secretary of State, as permitted under A.R.S. § 41-1032(A). These rules have been promulgated so that the Arizona Department of Public Safety will be afforded a more effective method of tracking and identifying those Commercial Motor Vehicles with a poor safety rating.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 4349, November 24, 2006  
Notice of Proposed Rulemaking: 12 A.A.R. 4789, December 29, 2006  
Notice of Supplemental Proposed Rulemaking: 13 A.A.R. 1377, April 20, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Janette M. Quiroz  
Address: Administrative Rules Unit  
Department of Transportation  
1801 W. Jefferson, MD 530M  
Phoenix, AZ 85007  
Telephone: (602) 712-8996  
Fax: (602) 712-3081  
E-mail: jmquiroz@azdot.gov  

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**  
In conjunction with the Arizona Department of Public Safety, the Division has amended R17-5-203 to require CMVs identified under R17-5-203(B)(3) to obtain a United States Department of Transportation (USDOT) number from the Federal Motor Carrier Safety Administration registry for intrastate travel within Arizona. This amendment is made in an effort to facilitate tracking and identification of those CMVs with a poor safety rating.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
The Division did not review nor rely upon any study relevant to this rulemaking.
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
The rule amendment under R17-5-203(D) is anticipated to promote highway safety in Arizona. The amendment requires that a USDOT number be obtained for CMVs for intrastate vehicles, which will facilitate tracking and identification of those CMVs with a poor safety rating.

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Affected entities are CMVs, state and local law enforcement agencies that inspect commercial vehicles, and motorists sharing the roads with CMVs.

Law enforcement will benefit by being able to focus audits and inspection activities on problem carriers and the motoring public will benefit by reducing unsafe trucks and buses on the roadway.

There is no cost to the state or the commercial vehicle industry associated with registration and the cost of displaying the identification number on the vehicle is minimal. No fee is charged for obtaining the federal identification number, which is available on the Internet or through the U.S. mail. The only cost to the CMV operator would be for lettering to display the federal identification number.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Amendments were made to R17-5-203 at 12 A.A.R. 1559, May 12, 2006. The initial submission of amendments to R17-5-203 at 12 A.A.R. 4789, December 29, 2006, did not include those amendments. Additionally, the amendment to the CFR subsection under R17-5-203(D) should have included the entire subsection being amended, to include report and permit filing dates

**11. A summary of the comments made regarding the rule and the agency response to them:**

No public comments were received from the public.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?**

No

**15. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION  
COMMERCIAL PROGRAMS**

**ARTICLE 2. MOTOR CARRIERS**

Section

R17-5-203. Motor Carrier Safety: 49 CFR 390 – Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information

**ARTICLE 2. MOTOR CARRIERS**

**R17-5-203. Motor Carrier Safety: 49 CFR 390 – Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information**

**A. 49 CFR 390.3, General applicability, is amended as follows:**

1. Paragraph (a) is amended to read:

Regulations incorporated in this Section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be marked or placarded as prescribed in R17-5-209.

2. Paragraph (b) is amended to read:

A motor carrier driver domiciled in Arizona who operates a commercial motor vehicle as defined in A.R.S. § 28-3001 shall comply with the requirements of A.R.S. Title 28, Chapter 8 and any rule made under that Chapter.

3. Paragraph (c) is amended to read:

A motor carrier operating in Arizona in furtherance of a commercial enterprise, shall comply with the financial responsibility requirement specified in A.R.S. Title 28, Chapter 9, Article 2, and 49 CFR 387.

4. Paragraph (f)(6) is deleted.

**B. 49 CFR 390.5, Definitions. The definitions listed in 49 CFR 390.5 are amended as follows:**

1. If the term “Commercial Motor Vehicle” or “CMV” is used in reference to the controlled substances and alcohol use and testing requirement of 49 CFR 382, the term has the meaning prescribed in 49 CFR 382.107.

2. If the term “Commercial Motor Vehicle” or “CMV” is used in reference to the licensing requirements prescribed under A.R.S. § 28-3223, the term has the meaning prescribed under A.R.S. § 28-3001.

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3. If the term "Commercial Motor Vehicle" or "CMV" is not used in reference to the controlled substances and alcohol use and testing requirement of 49 CFR 382 or the licensing requirement prescribed under A.R.S. § 28-3223, the term means a self-propelled, motor-driven vehicle or vehicle combination, used on a public highway in this state in furtherance of a commercial enterprise that:
  - a. Has a gross vehicle weight rating (GVWR) as a single vehicle or a gross combination weight rating (GCWR) of 18,001 pounds or more for purposes of intrastate commerce;
  - b. Transports passengers for hire and has a design capacity of eight or more persons or transports a hazardous material in an amount requiring marking or placarding as prescribed by the federal regulations incorporated in R17-5-209;
  - c. Is not an intrastate-operating tow truck that has a GVWR of 26,000 pounds or less, but a tow truck operator remains subject to all other provisions prescribed under 49 CFR 391.41, 391.43, 391.45, 391.47, and 391.49; and
  - d. Operates for purposes of interstate commerce with a GVWR of greater than 10,000 pounds.
4. "Exempt intracity zone" is deleted and has no application in R17-5-203 through R17-5-208.
5. "For-hire motor carrier," "private motor carrier," "private motor carrier of passengers (business)," and "private motor carrier of passengers (nonbusiness)" are deleted from R17-5-203 through R17-5-208 and the term "motor carrier" is substituted.
6. "Regional Director of Motor Carriers" means the Division Director of the Arizona Department of Transportation, Motor Vehicle Division.
7. "Special agent" means an officer or agent of the Department of Public Safety, the Division, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona's Motor Carrier Safety requirements.
8. "State" means a state of the United States or the District of Columbia.
9. "Tow truck," as used in the definition of emergency in 49 CFR 390.5, has the meaning prescribed under A.A.C. R13-3-101.
- C. 49 CFR 390.15, Assistance in investigations and special studies. Paragraph (a) is amended to read:  
A motor carrier shall make all records and information pertaining to an accident available to a special agent upon request or as part of any inquiry within the time the request or inquiry specifies. A motor carrier shall give a special agent all reasonable assistance in the investigation of any accident including providing a full, true, and correct answer to any question of the inquiry.
- D. 49 CFR 390.21, Marking of CMVs. Paragraph (a) is amended to read:  
~~This Section applies to all motor carrier vehicles operated in Arizona. A motor carrier not subject to U.S. Department of Transportation marking requirements shall mark its vehicle with the:~~
  - ~~1. Company name, or~~
  - ~~2. Business trade name, and~~
  - ~~3. City and state.~~
 49 CFR 390.19 Motor carrier identification report. Paragraph (a) is amended to read:  
(a) Each motor carrier that conducts operations in interstate commerce, intrastate commerce if the carrier requires a Safety Permit as per 49 CFR 385.400 of this Chapter, or intrastate commerce in a CMV defined under A.A.C. R17-5-203(B)(3) shall file a Motor Carrier Identification Report, Form MCS-150, or the Combined Motor Carrier Identification Report and HM Permit Application, Form MCS-150B for permitted carriers, at the following times:  
(1) Before it begins operations; and  
(2) Every 24 months, according to the following schedule:

<u>USDOT Number ending in</u>	<u>Must file by last day of:</u>
<u>1</u>	<u>January</u>
<u>2</u>	<u>February</u>
<u>3</u>	<u>March</u>
<u>4</u>	<u>April</u>
<u>5</u>	<u>May</u>
<u>6</u>	<u>June</u>
<u>7</u>	<u>July</u>
<u>8</u>	<u>August</u>
<u>9</u>	<u>September</u>
<u>0</u>	<u>October</u>

- (3) If the next-to-last digit of its USDOT number is odd, the motor carrier shall file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT number is even, the motor carrier shall file its update in every even-



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numbered calendar year.

- E.** 49 CFR § 390.21 Marking of CMVs. Paragraph (a) is amended to read:  
(a) General. Every self-propelled CMV listed under A.A.C. R17-5-203(B)(3), subject to subchapter B of this Chapter shall be marked as specified in paragraph (b), (c), and (d) of 49 CFR 390.21.
- ~~E.F.~~** 49 CFR 390.23 Relief from regulations.
- Paragraph (a) is amended to read:  
Regulations contained in 49 CFR 390 through 397 do not apply to a motor carrier that:
    - Is exempt from federal jurisdiction, and
    - Operates a commercial motor vehicle used or designated to provide relief during an emergency.
  - Paragraphs (a)(1), (a)(1)(i), (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii) are deleted.
  - Paragraph (a)(2)(i)(A) is amended as follows:
    - An emergency has been declared by a federal, state, or local government official having authority to declare an emergency; or
    - An emergency situation exists under A.R.S. § 28-5234(B) as delineated in R17-5-210.
  - Paragraph (a)(2)(i)(B) is amended as follows:  
The Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines a local emergency exists that justifies an exemption from any or all of these Parts. If the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines relief from these regulations is necessary to provide vital service to the public, relief shall be granted with any restrictions the Arizona Department of Public Safety considers necessary.
  - “Interstate commerce” as used in paragraph (b) means engagement in a commercial enterprise.
- ~~F.G.~~** 49 CFR 390.25 Extension of relief from regulations - emergencies is amended as follows:  
A motor carrier seeking to extend a period of relief from these regulations shall obtain approval from the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau. The motor carrier shall give full details of the additional relief requested. The Arizona Department of Public Safety shall observe time limits for emergency relief from regulations as prescribed under 49 CFR 390.23(a), but may extend a period of relief after considering:
- Severity of the emergency,
  - Nature of relief services to be provided by the motor carrier, and
  - Other restrictions that may be necessary.
- ~~G.H.~~** 49 CFR 390.27 Locations of motor carrier safety service centers is amended to read:  
A motor carrier requesting relief from these regulations shall contact the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau, Telephone (602) 223-2212.

NOTICE OF FINAL RULEMAKING

TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3: ARIZONA STATE LOTTERY COMMISSION

[R07-259]

PREAMBLE

**1. Sections Affected:**

R19-3-201  
R19-3-201  
R19-3-202  
R19-3-202  
R19-3-203  
R19-3-203  
R19-3-204  
R19-3-204  
R19-3-204  
R19-3-205  
R19-3-206  
R19-3-207  
R19-3-208  
R19-3-209  
R19-3-210  
R19-3-211  
R19-3-212

**Rulemaking Action**

Renumber  
New Section  
Renumber  
Amend  
Renumber  
Amend  
Repeal  
Renumber  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
New Section  
New Section  
New Section

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R19-3-213	New Section
R19-3-214	New Section
R19-3-215	New Section
R19-3-216	New Section
R19-3-217	New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 5-504(B)

Specific statutes: A.R.S. §§ 5-512 and 5-515.01

**3. The effective date of the rules:**

September 8, 2007

**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 3815, October 13, 2006

Notice of Proposed Rulemaking: 13 A.A.R. 775, March 9, 2007

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: J. Art Macias Jr., Executive Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio, Budget Manager

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4507

E-mail: pdinunzio@azlottery.gov

**6. An explanation of the rules, including the agency's reason for initiating the rules:**

Article 2, Retailers, prescribes the requirements and procedures for Arizona retail businesses to obtain a license to sell Lottery game products. The rules explain common retailer provisions such as: requirements for the sale and payment of Lottery games, retailer conduct including the revocation, suspension or renewal of retailer licenses, hearing procedures, stolen tickets procedures, and Lottery-conducted compliance investigations. These rules are being amended to update provisions as a result of the Lottery's new contract for on-line game services, and to provide greater consistency with agency practice. This rulemaking also adds a definitions Section, revises license fees, removes outdated requirements and redundant terminology, and creates shorter Sections and subsections to improve the understandability of the rules. These changes will help to make the rules a more usable reference document for Lottery retailers.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Lottery studied its costs related to retailer licensing. The Lottery incurs a base cost, plus additional costs if the applicant has resided outside Arizona within the last 10 years or if the applicant is a corporation, limited liability company (LLC), partnership, or limited liability partnership (LLP). Licensing cost information is outlined in Table 1.

TABLE 1  
Lottery Retailer Licensing Cost

Admin Asst. Time (\$18.29/hr) • data entry	.5 hr	\$ 9.14
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Investigator Time (\$22.49/hr) • review application • conduct background investigation	1 hr	\$22.49
Fingerprint Check Fee 1/	\$10.00	
Credit Check Fee 2/	\$ 5.00	
TOTAL COST:	\$46.63	

1/ Cost to process fingerprint check for Arizona non-resident is additional \$29 per individual.

2/ Cost to process credit check for corporation, LLC, LLP, or partnership is additional \$22.

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The rules for Article 2, Retailers, describe various requirements and procedures for retail businesses to sell Lottery game products. The Lottery anticipates amendments to this Article will primarily impact the agency and Lottery retailers. Representatives from the retail community were included in reviewing the proposed rule changes.

**A. Arizona State Lottery.** Costs to the Lottery related to this rulemaking include background investigations for licensing, supplies and promotional items, ticket delivery, expenses to administer the on-line game network, and administrative costs associated with collecting sales revenue and providing customer service to retailers. These costs are included in the agency's appropriated budget, but in some instances, expenses have changed.

As part of this rulemaking, the Lottery proposes to increase the license fee to sell game products. A licensing investigation includes an Americans with Disabilities Act (ADA) onsite inspection, credit report, and fingerprint check for all prospective retailers. The Lottery's current licensing fee of \$36 was approved by Council in October 1998 and is no longer an accurate representation of costs. The Lottery studied its licensing costs (Table 1), and the average base cost to license a retailer is approximately \$45, as compared to the current fee of \$36. This base cost was determined by estimating the average time spent by Lottery staff to review the application and complete the background investigation. The Lottery incurs an additional fingerprint fee of \$29 for individuals who resided outside Arizona within the last 10 years and an additional credit check fee of \$22 for an applicant that does business as a corporation, limited liability company (LLC), partnership, or limited liability partnership (LLP). In an application where both incremental costs apply, the base fee only covers about 50% of actual costs. In FY06, the Lottery granted or renewed 485 licenses, of which 198 included additional non-resident fingerprint fees. The Lottery does not currently perform a significant number of credit checks on businesses that are classified as a corporation, LLC, LLP, or partnership, but this will likely change as the Lottery expands its retailer network. The proposed base fee, plus additional fees if applicable, will allow the Lottery to recoup actual costs incurred in the licensing process, while not penalizing retailers to which the costs do not apply.

The Lottery is adversely affected when licensed retailers do not notify the Lottery of a change in business ownership or business location in a timely manner. When either of these changes occurs, the Lottery must arrange to pick up remaining ticket stock, and sometimes, the Lottery sales terminal. This does not present a problem if the Lottery is notified within the prescribed time-frame of 10 business days. Otherwise, Lottery sales staff must make emergency arrangements to perform these tasks. Because sales routes are scheduled in advance, this often results in additional, unplanned travel time for Lottery staff and may inconvenience retailers that have to be rescheduled to accommodate this last minute change. In an effort to encourage retailers to report a change of ownership or business location in a timely manner, retailers that do not report these changes within 10 business days may no longer receive credit for remaining activated partial packs of tickets as established in R19-3-211. Retailers may avoid this consequence by reporting the change to the Lottery within the prescribed time-frame of 10 business days, which is a reasonable amount of time to know of an impending change in ownership or business location.

The Lottery is repealing the provision whereby the Lottery may seek reimbursement for telecom line charges for retailers that do not meet minimum sales requirements. The Lottery previously incurred expenses for telephone line installation and monthly charges for each retailer selling on-line games. However, the Lottery's new contract for on-line game services, which was effective in September 2006, now incorporates all retailer-related telecom expenses. The Lottery no longer incurs these direct telecom costs, which will result in substantial budget savings of approximately \$2.2 million annually. Telecom expenses are now included with overhead costs the on-line game vendor incurs related to the overall contract, which is based on a percentage of on-line game sales. The Lottery will realize administrative savings by no longer having to continuously monitor underperforming retailers, review requests for waivers, or process telecommunications line charges for the small percentage of retailers this provision affects. The Lottery currently has 84 underperforming (low volume) retailers, which equates to about 3% of the total network of approximately 2600 retailers. The Lottery retains some lower volume retailers in certain areas within the state to ensure geographic coverage, and if these retailers are excluded, the percentage of low volume retailers decreases to less than 2% of the entire retailer network. The Lottery will still require minimum sales levels to retain a license as prescribed in R19-3-204(A)(4), but sales requirements and other guidelines will be provided to retailers annually in

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writing instead of being specified in rule. This will provide flexibility for the Lottery to structure minimum sales requirements that are realistic and reflect changing market conditions.

**B. *Businesses Directly Affected by this Rulemaking.*** Businesses impacted by these rules are existing Lottery retailers or retail establishments that choose to apply for a license to sell Lottery products. Overall, this rulemaking is expected to benefit Lottery retailers as discussed in the following specific rule amendments organized by category. Unless otherwise specified, the same impact is anticipated for small businesses (retailers).

Licensing Process

Retailers are no longer required to submit a list of references to obtain a Lottery license as repealed in R19-3-202(A)(1)(f). The Lottery uses technology to obtain the information necessary to determine financial stability, so this requirement no longer adds value to the process. In addition, the time-frame for having any state business license revoked or suspended as a licensing prerequisite has been reduced from 10 years to 1 year in R19-3-202(B)(2). Under current provisions, if a Lottery license is denied or revoked, the licensee can reapply in one year. The change will make both time-frames consistent. The amended provisions will simplify the licensing process for retailers.

The addition of R19-2-202(H)(2) provides for license renewal fees to be collected automatically through the retailer's checking account. Retailers are accustomed to this procedure since it is the same method used for weekly billings. This change will benefit retailers by simplifying the license renewal process and will not result in added costs to the agency. The change involves a minimal programming cost to the Lottery that will be offset by improved efficiency in processing license renewals.

As part of this rulemaking, Lottery retailers will incur a minimal fee increase to apply for a new license or renew an existing license. The base fee will be \$45 as established by this rulemaking. If applicable, applicants will incur an additional fingerprint fee of \$29 for individuals who have resided outside Arizona within the last 10 years and a background check fee of \$22 for an applicant that does business as a corporation, LLC, LLP, or partnership. The current license application fee of \$36 has been in place since 1998. The revised fees will allow the Lottery to recoup costs incurred in the licensing process, while only impacting those retailers to which the fees apply. In FY06, the Lottery issued 334 new retailer licenses, renewed 151 licenses, and collected approximately \$17,000 in license fees. The revised fees represent a minimal business cost to the retailer, which is far outweighed by commissions retailers earn. The Lottery has approximately 2600 total retailers. Retailers earn \$.065 per each \$1 transaction and are eligible for up to an additional one-half percent based on meeting performance criteria. In FY06, retailers earned over \$31 million in Lottery game commissions.

Game Provisions

This rulemaking removes the requirement for retailers to sell a minimum of four instant games. This requirement is no longer necessary since most retailers typically maintain an average of 16 different games and larger retailers carry 20-24 different games. The Lottery still retains authority under R19-3-213 with respect to sales of Lottery game products.

The rulemaking repeals the provision requiring retailers to return remaining instant tickets within 30 days after the announced end of the game. Lottery sales representatives currently perform this function and this change will make the rules consistent with procedure. In addition, the specific criteria for ending instant games have been repealed. Although the Lottery continues to use these criteria internally, the particular reason why a game ends is not relevant to the retailer and does not need to be detailed in rule. These changes are neutral with respect to economic impact.

Licensing Requirements

The requirement for a licensee to have validation and cashing functions operational a minimum of 14 hours each day is repealed. Some retailers cannot comply with this requirement due to limited business hours and the provision adds no value to the rules. **Small Businesses:** The elimination of this requirement will benefit small retailers that are more likely to have limited hours of operation.

This rulemaking repeals the requirement to display three different point-of-sale promotional materials. The Lottery has new multi-media display devices that are included as part of the new on-line services contract. This display terminal provides the capability to concentrate advertising and promotional messages at the point of sale, thereby eliminating the need for a specific retailer requirement in this regard. Retailers will benefit from the convenience the terminal offers and by no longer having to devote space for displaying three separate pieces of Lottery promotional materials. The Lottery benefits from greater control and consistency regarding promotional messages.

In R19-3-206, the provision for retailers to pay telephone line charges in lieu of meeting minimum sales requirements is repealed since this is no longer a direct cost for the Lottery. A retailer must continue to maintain minimum sales levels as determined by the Lottery to retain its Lottery license. However, these minimum sales requirements will be specified in writing and distributed annually to retailers, rather than detailed in rule. This provides flexibility to structure sales minimums that better reflect changing market conditions and will help to avoid situations where retailers are held accountable for meeting sales requirements that may no longer be relevant or practical. Eliminating the telecom provision does not impact the vast majority of retailers; low volume retailers represent a small percentage of the overall retailer network. These retailers only comprise about 3% of the Lottery's 2600 retailers and the figure drops to less than 2% if geographic exceptions are excluded. This compares to an average of 7% when tracking began in

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FY01. The decrease in low volume retailers can be attributed to various factors including efforts to educate retailers about the best mix of products, expanding the number of games retailers carry, and the introduction of tickets at higher price points (\$3, \$5 and \$10 games). Removing the telecom provision is not expected to negatively impact the Lottery's on-line vendor, since all costs are presumed to have been factored into and reflected in the vendor's bid proposal. Due to economies of scale from managing the entire network, telecom costs to the vendor at the individual retailer level are minimal. **Small Businesses:** The overall impact on small businesses is expected to be positive. Although low volume retailers generally tend to be small retailers, repealing the provision to pay telecom costs will impact a minimal number of these retailers, as noted above. In addition, the related change of removing sales minimums in rule should benefit small retailers who may have had difficulty maintaining the previous set requirements. Providing sales minimums and guidelines to retailers annually gives the Lottery the ability to structure sales requirements that are both realistic and ensure efficient business operations. The Lottery recognizes there is typically no single performance standard that fits all retailers. However, the Lottery must balance this against the responsibility to maintain a cost-effective retailer network. The Lottery's intent is to enforce sales provisions equally for all retailers, but to the extent possible, the Lottery will provide additional resources to reduce the impact on small businesses as prescribed in A.R.S. § 41-1035. Lottery sales representatives can devote additional time to small retailers to facilitate sales growth and assist these retailers in meeting minimum sales requirements. In addition, technological advancements received as part of the Lottery's new on-line contract may assist these retailers in achieving higher sales levels. This includes new multi-media display devices that offer a venue for point-of-sale advertising, retailer management tools via a secure web site, and self-service customer ticket checkers.

Security Issues

The required length of time that a retailer must retain Lottery-related documents for compliance investigation purposes has been reduced from five years to three years in R19-3-207(C). This provides consistency with the time-frame for license renewals and with the Lottery's standard compliance investigation schedule. The Lottery's objective is to conduct a compliance investigation on each retailer once every two years, so the shortened retention requirement will not impact information necessary to perform these checks. Retailers will benefit by retaining records for a shorter period of time.

The amount a retailer may recover for ticket theft has changed from 50% to 100% of losses not paid by the retailer's insurance if the theft occurred by an unknown party. The Lottery will also reimburse 50% of losses caused by internal theft if the retailer complies with the provisions in R19-3-217. Retailers will benefit from receiving full reimbursement for losses that occurred through no fault of the retailer and from receiving partial reimbursement for theft that occurred internally. These reimbursement strategies are meant to encourage early reporting of theft, which enable the Lottery to prevent further economic losses that could occur if prizes are inadvertently paid on stolen tickets. In FY06, the Lottery had 109 reports of stolen tickets. Of the reported incidents, 84 were due to theft, 6 were burglaries, 2 were robberies, and 17 were due to internal/employee theft. Although internal/employee theft was a relatively low percentage of total reported incidents, it accounted for approximately 65% of retailer monetary losses. In many instances, Lottery investigative staff first note suspicious account activity and alert retailers to potential fraud long before the retailer is aware of a problem. The Lottery routinely provides loss prevention information and assistance to retailers in an effort to minimize losses due to theft, and retailers will not be reimbursed if the theft was caused by the retailer's negligence. This rulemaking also limits each retailer to no more than two stolen ticket requests within a 12-month period. This time-frame is consistent with the trigger level for insurance fraud and will serve to protect the Lottery's economic interest regarding fraudulent activity.

**C. State Revenues.** Revenue generated from Lottery game sales and retailer license fees are deposited into the Lottery Fund and Lottery Prize Fund. In FY06, total game sales were \$468.7 million and approximately \$17,000 was collected in license fees. There may be a moderate increase in revenues due to the proposed increase in license fees; however, the fees only allow the Lottery to recover the cost of providing the service. The state will benefit from this provision, but not profit from it. A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522. The Lottery returned over \$141 million to state beneficiaries in FY06.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state, the general public, or private and public employment.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made at the request of G.R.R.C. staff. There are no substantive changes between the final rules and the proposed rules.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The Lottery received one written comment related to this rulemaking from Kristin Krusemark, representing Circle K stores.

**Comment:** In R19-3-217 there should be a hold harmless for situations where a retailer is a victim of a criminal act.

**Response:** The Lottery agrees and addressed this issue in the proposed rules. Retailers will receive full credit for stolen tickets when theft occurs from a source not associated with the retailer or by an unknown party as provided in R19-3-217(D)(1). The credit would be reduced by the amount of any third-party reimbursement.

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**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. Were these rules previously made as emergency rules?**

No

**15. The full text of the rules follows:**

**TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3: ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 2. RETAILERS**

Section

R19-3-201. Definitions

~~R19-3-201~~ R19-3-202. Retailer's Application and License

~~R19-3-202~~ R19-3-203. Direct Sales by Lottery

~~R19-3-203~~ R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License

~~R19-3-204. Display of Point of sale and Promotional Material~~

~~R19-3-205. Instant Game Requirements~~ Lottery-Issued Equipment

~~R19-3-206. On-line Game Requirements~~ Retailer Training

R19-3-207. Compliance Investigations

R19-3-208. Penalties

R19-3-209. Notice and Service

R19-3-210. Reportable Events

R19-3-211. Change of Ownership or Business Location

R19-3-212. Retailer Compensation

R19-3-213. Ticket Sales to Players

R19-3-214. Payments to Lottery

R19-3-215. Prize Validation and Payment

R19-3-216. Distribution and Return of Instant Tickets

R19-3-217. Unaccounted and Stolen Instant Tickets

**ARTICLE 2. RETAILERS**

**R19-3-201. Definitions**

In this Article, unless the context otherwise requires:

1. "Act" means Title 5, Chapter 5, Article 1 of the Arizona Revised Statutes.
2. "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
3. "Partial pack of tickets" means less than a complete pack of consecutively numbered and connected tickets. If a pack is broken into individual tickets, each individual ticket is considered a partial pack.
4. "Premises manager" means the contact representative for a specific business site.
5. "Retailer" means a licensed provider of sales and redemptions services for Lottery products.
6. "Ticket" means one or more Lottery game plays.
7. "Validation" means confirmation of a winning Lottery ticket by Lottery-issued equipment.

**~~R19-3-201~~ R19-3-202. Retailer's Application and License**

A. Application. A person interested in obtaining a license to sell ~~lottery~~ Lottery tickets shall:

1. Submit to the Director a verified application on forms prescribed by the Director containing the following information:
  - a. The ~~applicant~~ applicant's name, and if different, the trade name of the retailer's business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
  - b. The applicant's current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
  - c. Certification that the applicant's business location complies with the Americans with Disabilities Act;
  - d. Marketing and sales information, ~~on the forms and in the manner specified on the forms provided by the Lottery~~;

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sufficient for the Lottery to determine whether applicant is likely to be able to sell the minimum lottery tickets required by R19-3-203(A)(4). The information required includes the expected volume of expected sales, number of cash registers, hours of operation, products presently offered for sale, and approximate average daily number of persons entering the applicant's business premises using at least 10 consecutive sample days within three months before the application date, and actual previous lottery sales history at that location or in comparable stores of the applicant, if any; daily volume of customers entering the place of business;

- e. Evidence that the applicant's business products or services are not exclusively ~~Lottery~~ lottery products or services concerning lotteries;
  - f. ~~Names, addresses, and phone numbers of three business references for the applicant;~~
  - ~~g-f.~~ Financial relationship and any outstanding debt with the state of Arizona, any of its political subdivisions, or the United States government;
  - ~~h-g.~~ Evidence that the applicant is financially solvent. The evidence may include any one of the following:
    - i. Equity or unencumbered assets in real estate or personal property, other than goodwill and intellectual property, in an amount of \$100,000 or more;
    - ii. Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the last three consecutive years, and does not have outstanding legal actions, judgments, or tax liens;
    - iii. Personal guarantee in writing of applicant's Lottery account signed by a guarantor and the guarantor's spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.
  - ~~i-h.~~ Electronic Funds Transfer Authorization agreement showing a valid bank account number from which the Lottery will withdraw any amounts due; and
  - ~~j-i.~~ Name, case number, court designation, and type of action for any pending litigation or judgments for which the applicant may potentially be held financially responsible.
2. If the applicant does business as a sole proprietorship or partnership:
    - a. The name, home address, and home phone number of each owner or partner, including spouse if community property owner, unless applicant provides proof that the business is sole property separate from the community;
    - b. Written authorization and tax identification number for the business entity and ~~social security~~ Social Security number of each applicant in order to obtain a credit search from a credit reporting agency; and
    - c. A completed authorized fingerprint card for the ~~licensee~~ applicant. If any general partner is a corporation, a fingerprint card is required under subsection (A)(4).
  3. If the applicant does business as a limited liability partnership ("LLP") or a limited liability company ("LLC"):
    - a. The name, home address, and home phone number of each partner or member;
    - b. Written authorization and tax identification number ~~for the business entity to perform a credit search;~~ and
    - c. A completed authorized fingerprint card for each partner or member.
  4. If the applicant does business as a corporation:
    - a. The name, corporate address, and corporate phone number of each officer and director, and the name, home address and home phone number of the responsible local manager ~~and who is the~~ contact representative for the applicant's corporate location in Arizona;
    - b. Written authorization and tax identification number to perform a credit search; and
    - c. A completed authorized fingerprint card for the appropriate responsible local manager ~~who is the contact representative for the applicant's corporate location in Arizona.~~
  5. If the Lottery licenses an applicant under subsection ~~(A)(1)(h)(iii)~~ (A)(1)(g)(iii), the guarantor shall provide a written authorization to perform a credit search. If the guarantee is based on community property, the guarantor and guarantor's spouse shall provide written authorization for the Lottery to perform a credit search.
  6. Submit an application fee of ~~\$36.00.~~ \$45.00 and the following fees, if applicable: ~~If the applicant is a business with more than one current licensed location, the application fee for the new location shall be pro-rated at \$1.00 per month from the application date until the date the other licenses are due for renewal under R19-3-201(I)(2)(c).~~
    - a. If any individual listed on the personal questionnaire has resided outside the state of Arizona within the last 10 years, a fingerprint fee of \$29 per individual.
    - b. If the applicant does business as a corporation, limited liability company, limited liability partnership, or a partnership, a credit check fee of \$22.
  7. If the applicant is a business with more than one current licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under R19-3-202(H)(2)(c).
- B. Prerequisites to obtain or renew a license.**
1. Evidence that the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines that the person has committed any act which, if committed ~~or done~~ by a Lottery-licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;

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2. An applicant, a director or officer of a corporation, or member of a limited liability company, shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last ~~40 years~~ 12 months;
  3. An applicant, a director or officer of a corporation, or member of a limited liability company, shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than ADA ~~non-compliance~~ noncompliance, and shall not have sold Lottery products without being licensed within one year of the person's date of application;
  4. The applicant shall have demonstrated financial solvency based on the information provided in the application, credit search, or pending litigation, if any, or tax liens, if ~~any~~; any.
  5. ~~Applicant demonstrates either sufficient average daily sales, as defined in R19-3-201(A)(1)(d), or the applicant presents evidence of a retailer with the same type of business with a similar population base that meets or exceeds the required minimum sale of Lottery tickets.~~
- C. The Lottery shall not issue a license to an applicant if any of the following applies:
1. The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members is a minor, or a corporation in which a corporate officer, director, or manager of Lottery sales is a minor;
  2. The organization is ~~a sexually-oriented~~ an adult oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507; or
  3. The applicant provides deferred presentment services defined in A.R.S. § 6-1251.
- D. Residency requirement. To obtain a license, an applicant shall be one of the following:
1. A resident of Arizona;
  2. A corporation incorporated in Arizona or authorized to do business in Arizona;
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona;
  4. A partnership in which at least one of the general partners resides in Arizona; or
  5. A limited liability partnership in which at least one of the partners resides in Arizona.
- E. Time-frame for licensure.
1. The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fee prescribed in subsection (A).
    - a. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
    - b. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for completion of the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
    - c. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
  2. An applicant with an incomplete application shall submit all of the missing information within 20 days of service of the notice of incompleteness.
  3. If an applicant fails to submit a complete application within the time allowed, the Director shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to this Section.
  4. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
    - a. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
    - b. If an applicant is found to be eligible, the Director shall issue a license to the applicant permitting the applicant to engage in business as a Lottery retailer under the terms of this Chapter.
    - c. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
    - d. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
    - e. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 18 days.
  5. For the purpose of A.R.S. § 41-1072 et seq., the Director establishes the time-frames for a license to sell Lottery tickets:
    - a. Administrative completeness review time-frame: 15 days.
    - b. Substantive review time-frame: 75 days.
    - c. Overall time-frame: 90 days.
  6. If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.



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- F.** ~~A Lottery licensee shall sell only the type of Lottery product authorized by the Lottery.~~
- ~~1. The Director may license a qualified applicant to sell any one or any combination of the Lottery's game products.~~
  - ~~2. The Director may require a licensee to sell a minimum of four instant games with different game numbers. The Director may exempt a licensee from selling four different instant games if the licensee shows three consecutive months of double the minimum sales requirement in R19-3-203(A)(4)(a).~~
  - ~~3. The Director may require a licensee to sell instant tickets as a condition of selling on-line tickets or shares.~~
- G.F.** Display of license and point-of-sale material.
1. A license issued under this Chapter shall be signed by the Director or the Director's designated representative. A licensee retailer shall post the license or a copy of the license held by the licensee retailer in a conspicuous place on the premises where the licensee retailer sells lottery Lottery products. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-203.
  2. A retailer shall prominently display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer Notice.
  3. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.
- H.G.** ~~As a condition of licensure, each licensee retailer shall agree to release, indemnify, defend, and hold harmless, the Arizona Lottery, its directors, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to affect the rights of the licensee retailer to recover for losses caused by any third party.~~
- I.H.** Duration and renewal of license.
1. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
  2. A licensee retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in R19-3-201(A), (B), and (D), accompanied by the required \$36.00 fee R19-3-202(A),(B), and (D). By filing an application for renewal, the retailer authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer.
    - a. An application for renewal of a lottery Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date, shall authorize the licensee retailer to operate as a retailer until actual issuance of the renewal license.
    - b. The Director may refuse to renew a license according to the provisions of R19-3-203 R19-3-204.
    - c. A licensee retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro-rated at \$1.00 \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same licensee retailer.
  3. A license issued under this Chapter that has expired by operation of law for failure to renew may be activated and renewed within one year of its expiration by filing the required application of renewal and payment of the application renewal fee provided for in this Chapter. If a license has been suspended for one or more years for failure to renew, a new application for license must be made and a new license issued according to this Chapter.
  4. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter before the expiration date.
- J.** Reportable Events. A licensee shall report the following events to the Lottery in writing at least 15 days before the event or as otherwise specified in this Section:
1. Change in business location;
  2. Sale of ownership of the business;
  3. Death of a licensee within 15 days after the death occurs;
  4. Addition or removal of a partner in a partnership or a limited liability partnership;
  5. Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a 10% or more shareholder or adds a 10% or more shareholder of a corporation;
  6. Merger or acquisition of the licensed entity;
  7. Addition or removal of a member in a limited liability company;
  8. Addition or removal of a controlling agent or designated corporate contact representative;
  9. Divorce or legal separation action filed by an individual licensee or licensee's spouse, if the licensed entity is a sole proprietorship or a partnership;
  10. Licensee or guarantor becomes insolvent;
  11. Licensee or guarantor files bankruptcy;
  12. Licensee is sued for a monetary judgment;
  13. Change in bank account from which the Lottery's electronic funds transfers are made;
  14. Change in mailing address or phone number of licensee or guarantor; or
  15. The applicant, a director or officer of a corporation, or a member of a limited liability company is charged with a fel-

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- ~~any, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling.~~
- ~~K. Change of Ownership or Business Location. A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise stated on the license.~~
- ~~1. If there is a change of ownership, business location, or for changes listed in subsections (J)(1) through (J)(7), the licensee shall:~~
    - ~~a. Surrender the license to the Director on the date of the event;~~
    - ~~b. Not sell any additional Lottery tickets;~~
    - ~~c. Not allow the sale of Lottery products under a subcontract.~~
  - ~~2. The new owner shall apply for a license according to R19-3-201.~~

**~~R19-3-202~~R19-3-203. Direct Sales by Lottery**

The Lottery may sell Lottery tickets at its main office, any branch it establishes in the state, or any promotional event.

**~~R19-3-203~~R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License**

- A. A retailer's license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:
1. The ~~licensee~~ retailer violates a provision of the laws of the state of Arizona, the United States, or the regulations of the ~~Arizona Lottery Commission~~, which could be punished by jail time or imprisonment, revocation or suspension of a Lottery license, or involves moral turpitude;
  2. The ~~licensee~~ retailer offers to sell a Lottery ticket, sells a Lottery ticket or pays a prize on any winning Lottery ticket to a person younger than 21 years old;
  3. The ~~licensee~~ retailer sells a Lottery ticket to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase the Lottery ticket or sells a Lottery ticket to a person during the same transaction in which the person uses a public assistance voucher issued by any public entity or an electronic benefits card issued by the Department of Economic Security to purchase any goods in addition to the Lottery ticket;
  4. ~~The licensee's average weekly sales of tickets for:~~
    - ~~a. Instant games are less than \$250 per week for the preceding quarterly period; and~~
    - ~~b. On-line games are less than \$400 per week for the preceding quarterly period; or~~
    - ~~c. Instant games and on-line games combined are less than \$650 per week for the preceding quarterly period;~~
  4. The retailer does not meet the minimum sales requirements or does not follow the guidelines specified in writing by the Director. The Lottery shall provide minimum sales requirements and guidelines to each retailer annually. The Lottery may also post this information on the Lottery's web site for review. The minimum sales requirements and guidelines shall include:
    - a. The formula used to determine the minimum sales requirements and guidelines for the specified time period;
    - b. Resources available to assist retailers in achieving minimum sales requirements and guidelines; and
    - c. The process the Lottery will initiate if a retailer fails to achieve the minimum sales requirements or follow the specified guidelines.
  5. The ~~licensee~~ retailer commits an act that impairs the ~~licensee's~~ retailer's reputation for honesty and integrity;
  6. The ~~licensee~~ retailer does not make purchase or redemption of Lottery tickets convenient and readily accessible to the public;
  7. The ~~licensee~~ retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, incomplete, or omits relevant information;
  8. The ~~licensee~~ retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period ~~that is caused by the retailer's actions;~~
  9. The ~~licensee~~ retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
  10. The ~~licensee or an officer or~~ retailer, or an officer, controlling agent, or local manager of the ~~licensee~~ retailer:
    - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, or a crime involving gambling or fraudulent schemes and artifices; or
    - b. Is the subject of a civil order, judgment, or decree of a federal or state authority for misrepresentation, consumer fraud, or any other fraud;
  11. Facts are discovered which, if known at the time the Lottery retailer's license was issued or renewed, would have been grounds to deny licensure;
  12. The ~~licensee~~ retailer adds a minor as an owner, partner, or officer of the business;
  13. The ~~licensee~~ retailer or an officer or employee of the ~~licensee~~ retailer sells a ticket or pays a prize to oneself, to any entity either wholly owned or partially owned by the ~~licensee~~ retailer, or any entity with 10 percent or more of the same shareholders, partners, or members as the ~~licensee~~ retailer;
  14. The ~~licensee~~ retailer or an officer or employee of the ~~licensee~~ retailer sells ~~or exchanges~~ any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
  15. The ~~licensee~~ retailer or an officer or employee of the ~~licensee~~ retailer sells a Lottery ticket by telephone, mail, fax, on

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- the Internet, or on premises other than the one listed on the Lottery retailer's license;
16. The ~~licensee~~ retailer or an officer or employee of the ~~licensee~~ retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
  17. The ~~licensee~~ retailer fails to display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, Authorized Retailer ~~deal~~ Notice, or license;
  18. The ~~licensee~~ retailer fails to report a change event defined in ~~R19-3-201(J)~~ R19-3-210; or
  19. The ~~licensee~~ retailer fails to ~~implement loss prevention procedures required in writing by the Lottery within 30 days of notice~~ comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations.
- B. The Director may on the Director's own motion, and shall on an allegation of a violation of a provision of the laws of the state of Arizona, the regulations of the ~~Arizona~~ Lottery, or the written complaint of any person, investigate an act of a ~~licensee~~ retailer within 30 days after receiving the information. The Director may temporarily suspend a license under an emergency action, and impose specific conditions on a ~~licensee~~ retailer during the suspension and commence an action to permanently revoke a license issued under this Article if the ~~licensee~~ retailer is found to have committed an act or omission listed in subsection (A).
- C. The Lottery shall mail or hand-deliver a notice of action to the ~~licensee~~ retailer to suspend or revoke a license. Written notice to the ~~licensee~~ retailer is effective notice if it is sent or hand-delivered to the address in the application or the last address provided under ~~R19-3-201(J)~~ R19-3-210.
- D. Emergency action.
1. The Director may ~~turn-off~~ disable a retailer's on-line terminal and suspend sales of Lottery tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:
    - a. The ~~licensee's~~ retailer's bank account has insufficient funds when the Lottery's regularly-scheduled ~~scheduled~~ electronic transfer of the ~~licensee's~~ retailer's account is returned by the bank as insufficient funds or closed account and the ~~licensee~~ retailer does not immediately pay the insufficiency;
    - b. The ~~licensee~~ retailer fails to ~~implement loss prevention procedures required in writing by the Lottery within 30 days of notice~~ comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
    - c. The ~~licensee~~ retailer, corporate officer, director, partner, LLC member, or ~~location~~ premises manager is charged with a ~~felony or felony~~ felony theft that is designated as a misdemeanor, misdemeanor theft, ~~embezzlement~~, or a crime involving gambling or fraudulent schemes and artifices.
  2. A ~~licensee~~ retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
    - a. Immediately cease all sales of Lottery products, and
    - b. Surrender the retailer's license and all other Lottery property and products upon request by the Director's representative.
    3. If the ~~licensee~~ retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery products and property.
    4. The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under R2-19-103 and R2-19-110.
- E. Procedure for hearings. A ~~licensee~~ retailer may request a hearing before the Office of Administrative Hearings regarding a revocation, suspension, or license denial. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- F. Procedure for filing an appeal of a final administrative decision:
1. An appeal to the Lottery Commission is deemed an optional motion for rehearing.
    - a. A Notice of Appeal to the Lottery Commission shall be filed within 10 days of receipt of the final administrative decision. The Notice shall contain:
      - i. A copy of the Director's final administrative decision; and
      - ii. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
    - b. A person appealing the decision of the Director may file a written brief stating the position on the appeal within 30 days after receipt of the decision being appealed.
    - c. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
    - d. The Commission may rule based on the written briefs, or if requested, may provide for oral argument.
    - e. The Commission shall make its ruling on the appeal on the record.
    - f. A final decision of the Lottery Commission is subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
  2. A decision of the Director accepting, modifying, or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- G. Revocation of a retailer's license.

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1. A licensee retailer who receives a notice of the final administrative decision revoking the retailer's license shall:
  - a. Immediately cease all sales of Lottery products, and
  - b. Surrender the license and all other Lottery property and products upon request of the Director's representative.
2. If the licensee retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery products and property.

**~~R19-3-204. Display of Point-of-sale and Promotional Material~~**

- ~~A. Each licensee shall prominently display and maintain a minimum of three different point-of-sale promotional materials approved or provided by the Lottery.~~
- ~~B. A licensee shall prominently display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer decal.~~

**~~R19-3-205. Instant Game Requirements Lottery-Issued Equipment~~**

- ~~A. Distribution, return, and billing of instant tickets. The Lottery or its authorized representative shall distribute instant game tickets, accept returned instant game tickets, and bill instant game tickets sold to licensees as follows:~~
- ~~1. Distribute to each licensee the quantity of tickets on which the Lottery and the licensee agree, based on the licensee's anticipated volume of sales.~~
  - ~~2. Bill for instant ticket packs issued to a licensee 45 days after a pack is activated or after 85% of winning tickets in the pack are validated, whichever occurs first.~~
  - ~~3. Initiate collection of full packs and partial packs of tickets in a licensee's possession when a game ends.~~
  - ~~4. Credit to the licensee, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and partial packs of tickets the Lottery receives from the licensee not more than 30 days after the announced end of game.~~
  - ~~5. Collect full and partial packs of tickets during a game if the Lottery and the licensee determine that the licensee's sales for a specific game are minimal.~~
- ~~B. The Lottery shall announce, within three working days of the Director's written approval, the end of an instant game. The Director shall end an instant game when:~~
- ~~1. The last top prize has been claimed;~~
  - ~~2. There is an actual or perceived threat to the game's integrity or security;~~
  - ~~3. A particular percentage of the game's inventory has been invoiced;~~
  - ~~4. The designated sales period has expired; or~~
  - ~~5. At the discretion of the Director.~~
- ~~C. A licensee shall pay for instant game ticket sales in the following manner:~~
- ~~1. Pay to the Lottery each Friday, by an electronic transfer of funds, the amount due from the sale of its instant game Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due is the licensee's instant game tickets calculated according to subsection (A)(2) minus any promotion tickets, returned tickets, prize winnings paid out by the licensee, the licensee's sales commission and plus or minus any accounting or prize adjustments.~~
  - ~~2. A licensee shall deposit funds in a timely manner into a bank account from which an electronic transfer will be made to the Lottery.~~
    - ~~a. The licensee shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and~~
    - ~~b. The licensee shall notify the Lottery of any bank account changes 15 days before the effective date of the change.~~
  - ~~3. If a licensee's payment is returned to the Lottery for insufficient funds or any other reason, the licensee shall deliver a certified check, cashier's check, or money order or make a direct deposit to the Lottery's bank account within 24 hours of notification. Additionally, if the licensee's payment is returned to the Lottery,~~
    - ~~a. The Director may require the licensee to pay the amount due in the form of a cashier's check, money order, sight draft or certified check at the time of each future delivery of tickets;~~
    - ~~b. The Director may require the payment of each future delivery of tickets upon activation;~~
    - ~~c. The Director may inactivate the licensee's instant ticket validation terminal;~~
    - ~~d. The Director may pick up the licensee's current inventory of tickets and withhold further delivery of tickets; and~~
    - ~~e. The Director may revoke, suspend, or deny renewal of the licensee's license according to R19-3-203(A).~~
- ~~D. Ticket prize validation and payment requirements. A licensee shall provide prize winner validation and payment services to any Lottery claimant regardless of where a winning ticket was purchased. A licensee may pay all winner prizes, up to and including \$599, provided that the ticket is validated as specified in R19-3-705. The licensee shall pay all winner prizes, up to and including \$100, if the ticket is validated as specified in R19-3-705. Winner prizes may be paid by cash, business check, money order, or if the prize winner requests, by Lottery tickets.~~
- ~~E. A licensee retailer shall only sell or validate instant tickets Lottery products using its authorized instant validation terminal authorized Lottery-issued equipment in accordance with the Act and this Chapter.~~

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1. ~~Instant validation terminal~~ Equipment location. A retailer shall:
  - a. A licensee shall locate the ~~instant validation terminal~~ Locate the equipment at a site approved by the Lottery within the licensee's ~~retailer's~~ place of business. ~~The licensee and~~ shall not move the ~~terminal equipment~~ from that site without prior approval from the Lottery.
  - b. A licensee shall ~~ensure~~ Ensure that the electrical service ~~and data communication services to the terminal to the equipment~~ location ~~are is~~ installed according to the specifications established by the Lottery. The licensee ~~retailer~~ shall ~~timely~~ pay monthly charges for the electrical ~~and telephone services~~ service.
2. ~~Instant validation terminal~~ Equipment conversion.
  - a. If the Lottery ~~modifies~~ deems it necessary, the Lottery shall modify its on-line or instant gaming system; ~~it may by:~~
    - i. ~~Change terminals, equipment,~~ Changing equipment or accessories; or
    - ii. ~~Convert~~ Converting to another on-line or instant gaming system.
  - b. A licensee ~~retailer~~ shall assist the Lottery to the extent reasonable and practicable to accomplish a modification of the on-line or instant gaming system in a timely and economical fashion.
3. ~~Instant validation terminal operation.~~ A licensee shall have its instant validation terminal available for the validation and cashing of instant game Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's system is active and the licensee's business is open.
- 4.3. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued equipment ~~instant validation terminal interruption or termination of validation terminal operations.~~
- 5.4. ~~Instant validation terminal~~ Equipment care. A licensee ~~retailer~~ shall at all times:
  - a. Operate the ~~instant validation terminal, associated equipment,~~ Lottery-issued equipment and accessories only in the ordinary course of its ~~instant game~~ Lottery business and only according to the requirements established by the Lottery; and
  - b. Exercise diligence and care to prevent failures and malfunctions of, and ~~accidents damage~~ to the ~~terminal equip-~~ ment and other property of the Lottery, or property of ~~on-line and instant game~~ Lottery contractors.
- 6.5. ~~Instant validation terminal~~ Equipment maintenance. A licensee ~~retailer~~ shall:
  - a. Maintain the ~~instant validation terminal, associated equipment,~~ Lottery-issued equipment and accessories in a ~~clean, orderly, and good~~ clean and orderly condition;
  - b. Replace ~~ribbons and paper stock in the instant validation terminal equipment~~ as necessary; and
  - c. Minimize ~~terminal equipment~~ downtime by:
    - i. Notifying the Lottery or its ~~on-line or instant game~~ contractor immediately of any ~~terminal equipment~~ failure, malfunction, damage, or accident; and
    - ii. Making the ~~terminal equipment~~ available for repair, adjustment, or replacement at all times during the ~~licensee's retailer's~~ regular business hours.
- 7.6. ~~Instant validation terminal~~ Equipment supplies. A licensee ~~retailer~~ shall:
  - a. Order and use ~~terminal equipment~~ supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish ~~validation terminal equipment~~ supplies, at no cost, to the licensee ~~retailer~~; and
  - b. Maintain a sufficient inventory of ~~validation terminal~~ Lottery equipment supplies ~~to avoid an out-of-stock situation.~~
8. Licensee training. A licensee shall:
  - a. ~~Participate in training provided by the Lottery in the operation of instant validation terminals and sale of Lottery products, which may take place at a licensee's place of business;~~
  - b. ~~Ensure that all employees selling Lottery products or operating Lottery instant validation terminals are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment;~~
  - c. ~~Be responsible for:~~
    - i. ~~Any compensation payable to employees for participation in Lottery training courses and instruction; and~~
    - ii. ~~All other costs associated with employee training; and~~
  - d. ~~Provide all employees operating Lottery equipment with copies of the procedures manuals, bulletins, and technical materials furnished to the licensee by the Lottery or its contractors.~~
- F. Licensee's compensation. The Lottery shall pay a licensee a commission of six and one half percent of the price of each instant lottery ticket it sells. The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.
- G. Instant ticket sales.
  1. ~~The money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the State and shall be paid to the Lottery according to subsection (C).~~
  2. ~~The licensee shall sell instant game tickets in numeric order starting with ticket 000.~~
  3. ~~All instant game ticket sales are final and the Lottery will not accept ticket returns except as prescribed in subsection (A)(3).~~

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4. The retailer shall not sell an instant game ticket after the announced end of game.
- H.** In addition to the compensation specified in subsection (F), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to licensees who meet specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.
- I.** Unaccounted and stolen tickets.
  1. Tickets unaccounted for by a licensee shall be the property of the licensee.
  2. The licensee shall report stolen tickets to the local law enforcement agency within one hour of the theft or when discovered. In addition, the licensee shall report the theft by telephone to the Lottery's Security Division within one-half hour of law enforcement notification and provide the Lottery with a copy of the written police report. The licensee shall cooperate in any investigation and prosecution of the theft.
    - a. The licensee's insurance is the loss payee. If there is insufficient insurance to pay for the licensee's loss, the Lottery shall issue credit for stolen tickets that have been activated for sale. The credit shall be in an amount equal to 50% of the licensee's purchase price for the instant tickets less any third-party reimbursement. The Lottery shall not credit instant tickets reported as stolen that are in an "issued to retailer" status because the tickets are not activated for sale and are not billed to the retailer. The licensee shall sign an affidavit stating that the listed tickets were stolen and whether a claim for reimbursement is being or will be made with a third party for the amount covered by the available Arizona Lottery credit. If the licensee obtains reimbursement for the stolen tickets from a source other than the Lottery, the Lottery credit will be reduced by the amount of the third-party reimbursement.
    - b. The Lottery shall not issue a credit for stolen tickets if the Lottery finds the licensee was negligent or did not enforce reasonable loss prevention procedures to protect tickets, ticket processing, and ticket accounting.
    - c. Each licensee location is limited to no more than two stolen ticket credit requests within any 36-month period.
  3. If the claimed ticket for a prize is reported stolen or unaccounted for by a licensee, the Lottery shall hold the prize money in escrow pending the findings of an investigation by an appropriate law enforcement agency.
- J.B.** A licensee retailer may sell instant tickets using its authorized instant ticket Lottery product vending machine according to in accordance with the Act and this Chapter.
  1. A licensee retailer shall establish safeguards to ensure that instant ticket Lottery product vending machines are not operated by persons under the legal age to purchase Lottery tickets.
  2. The instant ticket Lottery product vending machine shall be placed in an area of the store that:
    - a. Is visible to store personnel and other customers players; and
    - b. Is easily accessible to players.
  3. The licensee retailer shall maintain an adequate supply of instant tickets in all bins to minimize out-of-stock conditions.

**R19-3-206. On-line Game Requirements Retailer Training**

- A.** Ticket sales requirements. Money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the State and shall be paid to the Lottery according to subsection (M). A licensee selling on-line Lottery games shall issue on-line Lottery tickets using its authorized terminal according to the Act and this Chapter.
  1. If a licensee accepts a returned ticket from a player or generates a ticket that is refused by the player and the licensee does not resell the ticket, the Lottery shall deem the ticket to be owned by the licensee.
  2. A licensee shall not sell a ticket or combination of tickets to any person or entity that could guarantee the purchaser a win.
  3. A licensee shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
  4. A licensee shall not devote more than 15 consecutive minutes of sales to a purchase by any single player if other customers are waiting to make a purchase.
  5. A licensee shall not permit the use of facsimiles or copies of selection slips, or other materials that are inserted into a terminal's selection slip reader that are not printed or approved by the Lottery. Plays may be entered manually only by using the Lottery terminal keypad or touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.
- B.** Ticket prize validation and payment requirements. A licensee shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased. If the ticket validation criteria in R19-3-406 and R19-3-407 are satisfied and a proper validation ticket is issued by the terminal, the licensee may pay a winner prize, up to and including \$599. A licensee shall pay all winner prizes up to and including \$100. Winner prizes may be paid by cash, business check, money order, or if the prize winner requests, by Lottery tickets.
- C.** Terminal location.
  1. A licensee shall locate an on-line Lottery terminal at a site approved by the Lottery within the licensee's place of business and shall not move the terminal from that site without prior approval from the Lottery.
  2. A licensee shall ensure that the electrical service and data communication services to the terminal location are installed according to the specifications established by the Lottery. The licensee shall timely pay monthly charges for

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the electrical services. The Lottery may assess the licensee for monthly data communication charges if licensee sales of Lottery products are less than the required minimums established in R19-3-203.

3. If any action by the licensee makes it necessary to correct or relocate data communication service after the terminal is initially installed, the licensee shall pay for the associated costs incurred. The Lottery shall provide to the licensee a statement of costs and a copy of the data communication bill associated with the costs.

**D. Terminal conversion.**

1. If the Lottery deems it necessary, the Lottery shall modify its on-line Lottery system by:
  - a. Changing terminals, equipment, or accessories; or
  - b. Converting to another on-line system.
2. A licensee shall assist the Lottery to the extent reasonable and practical to accomplish a modification of the on-line Lottery system in a timely and economical fashion.

**E. Terminal operation.** A licensee shall have its on-line Lottery terminal available for the sale, validation, cancellation, and cashing of on-line Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's on-line system is active and the licensee's business is open.

**F. The Arizona Lottery shall not be liable for damages of any kind due to failure of any on-line lottery terminal interruption or termination of on-line terminal operations.**

**G. Terminal care.** A licensee shall at all times:

1. Operate the on-line terminal, associated equipment, and accessories only in the ordinary course of its on-line Lottery business and only according to the requirements established by the Lottery; and
2. Exercise diligence and care to prevent failures and malfunctions of, and accidents to the terminal and other property of the Lottery or property of on-line contractors.

**H. Terminal maintenance.** A licensee shall:

1. Maintain the on-line Lottery terminal, associated equipment, and accessories clean, orderly, and in good condition;
2. Replace ribbons and ticket stock in the terminal as necessary; and
3. Minimize terminal downtime by:
  - a. Notifying the Lottery or its on-line contractor immediately of any terminal failure, malfunction, damage, or accident; and
  - b. Making the terminal available for repair, adjustment, or replacement at all times during the licensee's regular business hours.

**I. Terminal supplies.** A licensee shall:

1. Order and use on-line Lottery supplies, including but not limited to, ribbons, ticket stock, and selection slips exclusively from the Lottery or its designated contractor. The Lottery shall furnish on-line supplies, at no cost, to the retailer; and
2. Maintain a sufficient inventory of on-line Lottery supplies to avoid an out-of-stock situation.

**J. Licensee training.** A licensee shall:

**1-A. Participate** A retailer shall participate in training provided by the Lottery in the operation of on-line terminals Lottery equipment and sale of Lottery products, which may take place at a licensee's retailer's place of business; business.

**2-B. Ensure** A retailer shall ensure that all employees selling Lottery products or operating Lottery on-line terminals equipment are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment; equipment.

**3-C. Be** A retailer shall be responsible for:

- a. 1. Any compensation payable to employees for participation in Lottery training courses and instruction; and
- b. 2. All other costs associated with employee training; and training.

**4-D. Provide** A retailer shall provide all employees operating on-line Lottery equipment with copies of the procedures manuals, bulletins, and technical materials furnished to the licensee retailer by the Lottery or its on-line contractor contractors.

**K. Licensee compensation.** The Lottery shall pay a licensee a commission of six and one-half percent of the price of each on-line ticket it sells. The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.

**L. In addition to the compensation specified in subsection (K), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to a licensee who meet specifications established in writing by the Director. The written specifications shall be provided to the licensee before the incentive program begins.**

**M. A licensee shall pay for on-line ticket sales in the following manner:**

1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its on-line Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due means the retailer's gross on-line sales revenue, minus any promotion tickets, prize winnings paid out by the licensee, the licensee's sales commission and plus or minus any accounting or prize adjustments.
2. The licensee shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
  - a. The licensee shall provide the Lottery with an electronic funds transfer authorization showing a valid bank

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- ~~account number from which the amounts due the Lottery will be transferred; and~~
- b. ~~The licensee shall notify the Lottery of any bank account changes 15 days before the effective date of the change.~~
3. If a licensee's payment is returned to the Lottery for insufficient funds or any other reason, the licensee shall deliver a certified check, cashier's check, or money order, or make a direct deposit to the Lottery's bank account within 24 hours of notification. Additionally, if the licensee's payment is returned to the Lottery,
- a. ~~The Director may summarily inactivate the licensee's on line Lottery terminal; and~~
- b. ~~The Director may revoke, suspend, or deny renewal of the licensee's license according to R19-3-203.~~

**R19-3-207. Compliance Investigations**

- A. A ~~licensee~~ retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business for verification.
- B. A ~~licensee~~ retailer shall allow investigations during the ~~licensee's~~ retailer's regular business hours by authorized Lottery investigators to determine whether the ~~licensee~~ retailer is complying with the provisions of the Act and this Chapter.
- C. A ~~licensee~~ retailer shall keep all invoices, records, bills and other papers and documents relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for ~~five~~ three years. These records and papers shall be easily accessible to the Lottery-authorized investigator for examination or audit. The ~~licensee~~ retailer may use non-paper types of storage, such as microfiche and the ~~licensee~~ retailer may store records at a central location.

**R19-3-208. Penalties**

- A. The Director shall assess a civil penalty against a ~~licensee~~ retailer for any of the following acts of the ~~licensee~~ retailer:
1. Offering to sell or selling a ~~lottery~~ Lottery ticket ~~or share~~ to any person who is ~~less than~~ under 21 years of age;
  2. Selling a ~~lottery~~ Lottery ticket ~~or share~~ to a person who uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase the ticket or share; or
  3. Selling a ~~lottery~~ Lottery ticket ~~or share~~ during the same transaction in which a person uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase any goods in addition to the ~~lottery~~ Lottery ticket ~~or share~~.
- B. The Director shall on the written complaint of any person, and shall upon receipt of information indicating that a ~~licensee~~ retailer has committed an act listed in subsection (A), investigate an act of the ~~licensee~~ retailer listed in subsection (A). The Director shall give notice to the ~~licensee~~ retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds that the retailer has committed an act listed in subsection (A). The civil penalty for an act listed in subsection (A) is:
1. In an amount up to \$300 for the first violation within a 12-month period;
  2. In an amount more than \$300 and up to \$500 for the second violation within a 12-month period; and
  3. In an amount more than \$500 and up to \$1,000 for the third violation within a 12-month period.
- C. A ~~licensee~~ retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the ~~licensee~~ retailer receives notice of imposition of the civil penalty, if the ~~licensee~~ retailer does not request a hearing as provided in subsection (D).
- D. A ~~licensee~~ retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E. A decision of the Director accepting, modifying or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
1. If the ~~licensee~~ retailer decides not to seek judicial review of the Director's final administrative decision, the ~~licensee~~ retailer shall pay the civil penalty to the Lottery by the 36th day after the ~~licensee~~ retailer receives the Director's decision.
  2. If the ~~licensee~~ retailer decides to seek judicial review of the Director's final administrative decision, the ~~licensee~~ retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  3. If the ~~licensee~~ retailer decides to appeal the Superior Court's decision, the ~~licensee~~ retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  4. A ~~licensee~~ retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.

**R19-3-209. Notice and Service**

Service shall be deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy is delivered to the ~~licensee~~ retailer, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the ~~licensee~~ retailer or guarantor at the address listed on the application for license or as noticed as a change event under ~~R19-3-201(J)~~ R19-3-210.

**R19-3-210. Reportable Events**

A retailer shall report the following events to the Lottery in writing at least 10 business days before the event or as otherwise



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specified in this Section:

1. Change in business location;
2. Sale of ownership of the business;
3. Death of a licensed retailer within 10 business days after the death occurs;
4. Addition or removal of a partner in a partnership or a limited liability partnership;
5. Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a shareholder that holds 10% or more of a corporation or adds a shareholder that holds 10% or more of a corporation;
6. Merger or acquisition of the licensed entity;
7. Addition or removal of a member in a limited liability company;
8. Addition or removal of a controlling agent or designated corporate contact representative;
9. Divorce or legal separation action filed by an individual retailer or retailer's spouse, if the licensed entity is a sole proprietorship or a partnership;
10. Retailer or guarantor becomes insolvent;
11. Retailer or guarantor files bankruptcy;
12. Retailer is sued for a monetary judgment;
13. Change in bank account from which the Lottery's electronic funds transfers are made;
14. Change in mailing address or phone number of retailer or guarantor; or
15. The applicant, a director or officer of a corporation, a member of a limited liability company, or a local manager is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling.

**R19-3-211. Change of Ownership or Business Location**

A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise stated on the license.

1. If there is a change of ownership, business location, or for changes listed in R19-3-210(1) through R19-3-210(7), the retailer shall:
  - a. Surrender the license to the Director on the date of the event;
  - b. Not sell any additional Lottery tickets;
  - c. Not allow the sale of Lottery products under a subcontract.
2. If the retailer does not notify the Lottery of a change in ownership or business location at least 10 business days before the change, the retailer may not receive credit for any activated partial packs of tickets.
3. The new owner shall apply for a license according to R19-3-202.

**R19-3-212. Retailer Compensation**

- A.** The Lottery shall pay a retailer a commission of six and one-half percent of the price of each Lottery ticket sold. The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.
- B.** In addition to the compensation specified in subsection (A), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to a retailer who meets specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.

**R19-3-213. Ticket Sales to Players**

- A.** A Lottery retailer shall sell only the type of Lottery product authorized by the Lottery.
  1. The Director may require a retailer to sell any one or any combination of Lottery game products.
  2. The Director may require a retailer to sell instant tickets as a condition of selling on-line tickets.
- B.** A retailer shall only sell or validate Lottery products using authorized Lottery-issued equipment in accordance with the Act and this Chapter.
- C.** Other than informing a player of publicly available game odds, a retailer shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- D.** On-line tickets.
  1. All on-line ticket sales are final. If a retailer accepts a returned on-line ticket from a player or generates an on-line ticket that is refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
  2. A retailer shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
  3. A retailer shall not permit the use of facsimiles or copies of selection slips, or other materials that are not printed or approved by the Lottery. Plays may be entered by using the Lottery equipment touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.
- E.** Instant tickets.
  1. All instant ticket sales are final.
  2. The retailer shall sell instant tickets within each pack in sequential order.

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3. The retailer shall not sell an instant ticket after the announced end of game.

**R19-3-214. Payments to Lottery**

- A.** Money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (B).
- B.** A retailer shall pay for ticket sales in the following manner:
1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.
  2. The amount due for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.
  3. The amount due for instant tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, whichever occurs first, minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.
  4. The retailer shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
    - a. The retailer shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and
    - b. The retailer shall notify the Lottery of any bank account changes within 10 business days before the effective date of the change.
  5. If a retailer's payment is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
    - a. The Director may require that the retailer's Lottery equipment be disabled;
    - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
    - c. The Director may require the payment for instant tickets upon activating the pack for sale; and
    - d. The Director may require the return of the retailer's current inventory of instant tickets and suspend further delivery of instant tickets.

**R19-3-215. Prize Validation and Payment**

- A.** A retailer shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased.
- B.** A retailer shall pay all winning prizes up to and including \$100, and may pay all winning prizes from \$101 up to and including \$599. A winning instant ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the terminal. A winning on-line ticket shall satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the terminal.
- C.** Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.

**R19-3-216. Distribution and Return of Instant Tickets**

The Lottery or its authorized representative shall distribute instant tickets and accept returned instant tickets as follows:

1. Distribute to each retailer the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated volume of sales.
2. Collect full and partial packs of tickets during a game if the Lottery and the retailer determine that the retailer's sales for a specific game are minimal.
3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers in a timely manner.
4. Credit to the retailer, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and partial packs of tickets.

**R19-3-217. Unaccounted and Stolen Tickets**

- A.** All Lottery tickets issued to a retailer shall be the property of the retailer until their return is acknowledged by the Lottery.
- B.** The retailer shall report stolen Lottery tickets to the local law enforcement agency and the Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered.
1. The retailer shall provide a copy of the written police report to the Lottery.
  2. The retailer shall cooperate in any investigation and prosecution of the theft.
  3. The retailer shall sign an affidavit providing the details as known by the retailer.
  4. The retailer shall maintain and report current game, pack, and ticket inventory.
- C.** After sustaining a loss from stolen tickets, the retailer's insurance is the loss payee.
- D.** If there is insufficient insurance to pay for the retailer's loss and the retailer complies with subsection (B), the Lottery will credit the retailer's account for instant tickets that are stolen as follows:

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1. The Lottery shall credit all charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from a source not associated with the retailer or by an unknown party.
  2. The Lottery shall credit 50% of the charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from an employee, manager, officer, director, or a relative with access to Lottery tickets.
  3. Each retailer is limited to no more than two stolen ticket credit requests within any 12-month period.
- E.** The Lottery shall not issue a credit for stolen tickets if the Lottery finds that the retailer was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
- F.** If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the retailer, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.